

### **REMARKS**

The present application has been reviewed in light of the Office Action dated May 21, 2008. Claims 1-27 are currently pending, of which claims 1, 17 and 22 have been hereby amended. Paragraph 48 of the specification has been amended to a typographical error therein. In view of the amendments above and the remarks to follow, reconsideration and allowance of this application are respectfully requested.

Claims 1-6, 8-15, 17-19 and 22-25 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,206,913 to Yencho et al. (hereinafter Yencho). Applicant respectfully submits that each of independent claims 1, 17 and 22 is allowable over Yencho because Yencho fails to disclose each and every feature of independent claims 1, 17 and 22. Accordingly the rejection of independent claims 1, 17 and 22, under 35 U.S.C. § 102(b) is respectfully traversed.

Pursuant to 35 U.S.C. § 102, “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” MPEP § 2131. Applicant respectfully submits that Yencho fails to disclose each and every element recited in claim 1.

Independent claim 1 recites an apparatus for performing a surgical anastomosis including, *inter alia*, an anchoring assembly having a flange member having a head portion and an expandable annular body integrally coupled to the head portion, the annular body defining a passage, the passage extending through the head portion and the annular body; and a locking member configured and dimensioned to be received in the passage of the annular body, the locking member defining a lumen

therethrough, the locking member being configured and adapted to radially deflect the expandable annular body upon insertion of the locking member within the passage of the annular body.

The present application describes an embodiment in which, as depicted in FIG. 1 below, apparatus 100 includes a flange member 142. The flange member has an annular body 160 with a central opening 162 extending therethrough. Apparatus 100 also includes a locking member 144 that is discrete from the flange member 142. As depicted in FIG. 3C below, the locking member 144 is secured within the central opening 162 of the annular body 160 when the positioning tube 120 is withdrawn.

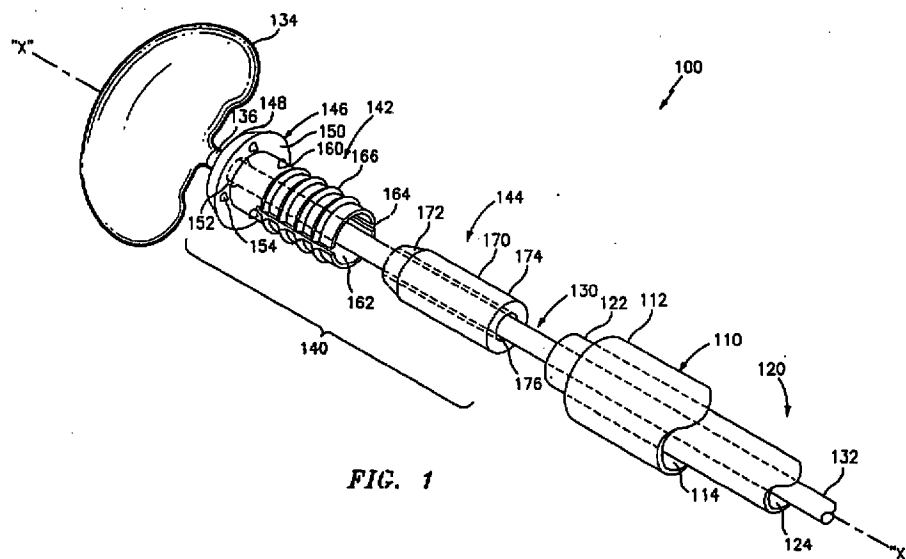


FIG. 1

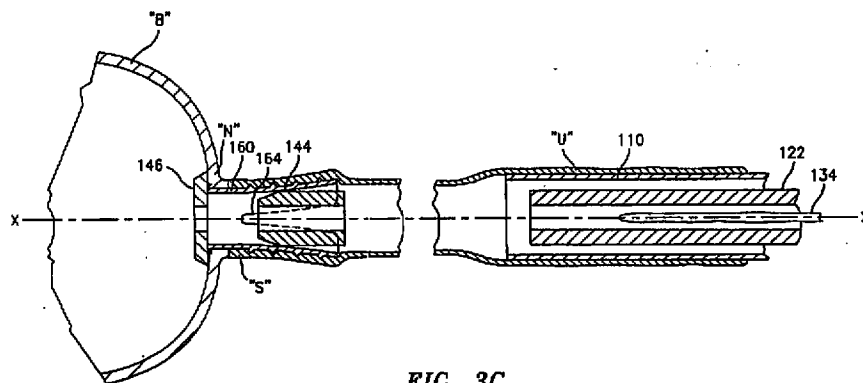


FIG. 3C

In contrast, Yencho discloses a system for attaching a graft vessel 125 to a target blood vessel 127 by applying a large vessel stent 110 (see FIG. 12 reproduced below). The system includes an applicator 131 (see FIG. 23) for applying the stent 110, which includes an outer tubular member 134 and an inner tubular member 136. The inner tubular member 136 may be rotated within the outer tubular member 134 to deploy the stent 110. (see, e.g., Col. 10, lines 26 through 36; Col. 12, line 66 through Col. 13, line 18).

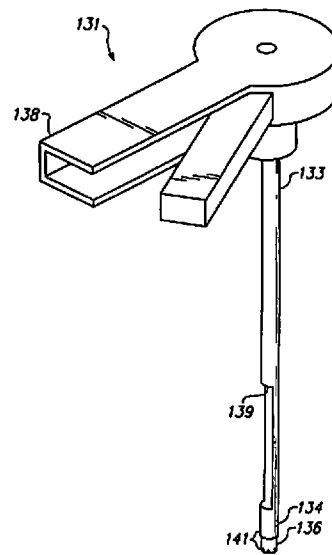
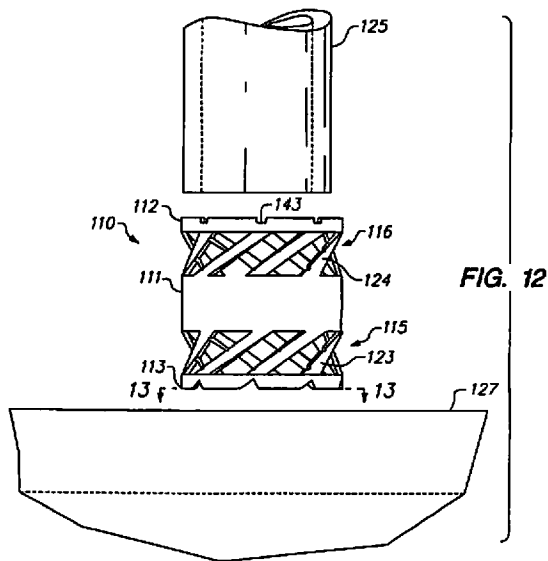


FIG. 23

In particular, inner and outer tubular members 136, 134 include connecting members 141 thereon to engage the stent 110. The connecting members 141 may take the form of tabs 142 and angular slits 144 as best seen in FIG. 27 below. The tabs 142 engage slits 143 on a proximal end of the stent 110 and the angular slits 144 engage tabs 145 (FIG 13) that protrude into the stent 110 (see col 12, lines 6-19). As depicted in FIG. 15, relative rotation of the tabs 145 and the slits 143 expand a distal deformable section 115 of the stent 110 to form a distal end flange 121.

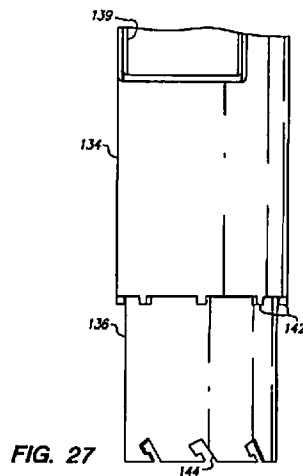


FIG. 13

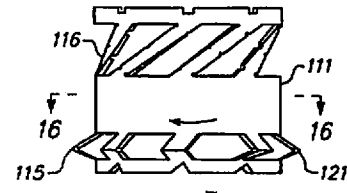
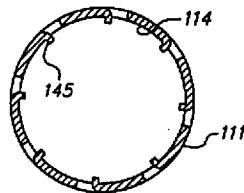


FIG. 15

Similarly a proximal end flange 122 may be formed from proximal deformable section 116 by further rotating the inner and outer members 136, 134 (see col. 13, lines 19-40). Once the proximal end flange 122 is formed, the inner and outer members 136, 134 of applicator 131 may be withdrawn, and end flanges 121 and 122 remain in place to attach graft vessel 125 to the target vessel 127 as depicted in FIG. 20 below.

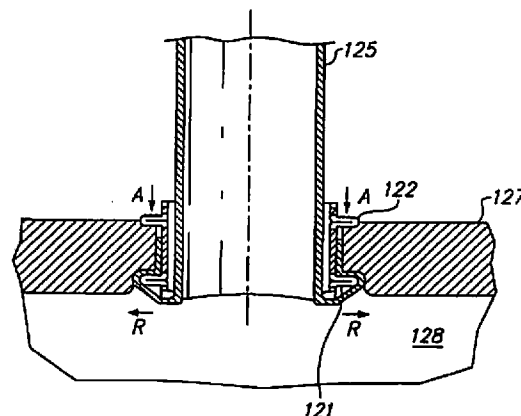


FIG. 20

As indicated above, Yencho discloses a single-component stent 110 that is radially expanded by relative rotation of inner and outer tubular members of an applicator 131, which is subsequently withdrawn. The stent 110 is not radially expanded by a separate locking member that is received within an annular body of a flange member, as required by claim 1.

In view of the foregoing, Applicant respectfully submits that each and every feature of independent claim 1 is not taught or disclosed by Yencho in that Yencho fails to teach or disclose an anchoring assembly having a flange member having a head portion and an expandable annular body integrally coupled to the head portion, the annular body defining a passage, the passage extending through the head portion and the annular body; and a locking member configured and dimensioned to be received in the passage of the annular body, the locking member defining a lumen therethrough, the locking member being configured and adapted to radially deflect the expandable annular body upon insertion of the locking member within the passage of the annular body. Accordingly, Applicant respectfully submits that independent claim 1 is patently distinguishable over Yencho, and therefore allowable over Yencho under 35 U.S.C. § 102(b).

As claims 2-6 and 8-15 depend, directly or indirectly, from claim 1 and contain all of the features of independent claim 1, Applicant respectfully submits that claims 2-6 and 8-15 are also allowable over Yencho under 35 U.S.C. § 102(b).

Independent claim 17 recites a method for performing a surgical anastomosis including the step of, *inter alia*, “an anchoring assembly including a locking member arranged to be received in the passage of the flange member, the locking member defining a lumen therethrough, the locking member being configured and adapted to radially deflect the expandable annular body upon insertion of the locking member within the passage of the annular body; and advancing the positioning tube through the tubular body to drive and secure the discrete locking member of the anchoring assembly into the annular body of the flange member and to deflect the annular body radially outward against the inner surface of the body lumen.” As discussed above, Yencho fails to teach or disclose a

separate locking member that is received within a flange member as called for in independent claim 17.

Accordingly, Applicant respectfully submits that independent claim 17 is patently distinguishable over Yencho, and therefore allowable over Yencho under 35 U.S.C. § 102(b). As claims 18-19 depend, directly or indirectly, from claim 17 and contain all of the features of independent claim 17, Applicant respectfully submits that claims 18-19 are also allowable over Yencho under 35 U.S.C. § 102(b).

Independent claim 22 recites “a locking member discrete from the flange member, the locking member . . . being configured and adapted to radially deflect the expandable annular body upon insertion of the locking member within the passage of the annular body such that the locking member is secured within the passage of the annular body.” As discussed above, Yencho discloses a stent 110 that may be radially expanded by applicator 131 that is subsequently withdrawn. Yencho fails to teach or disclose an expandable annular body that is expanded upon insertiorn of a discrete locking member that is secured within the annular body.

Accordingly, Applicant respectfully submits that independent claim 22 is patently distinguishable over Yencho, and therefore allowable over Yencho under 35 U.S.C. § 102(b). As claims 23-25 depend, directly or indirectly, from claim 22 and contain all of the features of independent claim 22, Applicant respectfully submits that claims 23-25 are also allowable over Yencho under 35 U.S.C. § 102(b).

Claim 16 stands rejected under 35 U.S.C. § 103(a) over Yencho in view of U.S. Patent No. 6,629,988 to Weadock. Applicant submits that claim 16 is allowable under 35 U.S.C. § 103(a) over Yencho in view of Weadock.

The Examiner relies on Weadock for the disclosure of an anchoring assembly made from a bio-absorbable material. Weadock relates generally to an anastomosis type staple. Applicant submits that even if Weadock does disclose an anastomosis type staple (e.g., anchoring assembly) made from bio-absorbable materials, Weadock fails to cure the deficiencies of Yencho in that Weadock does not disclose a flange member and a locking member arrangement, as recited in independent claim 1.

Accordingly, in view of the foregoing, since Weadock fails to cure the deficiencies of Yencho, Applicant submits that claim 16 is allowable under 35 U.S.C. § 103(a) over Yencho in view of Weadock.

Claims 7, and 26-27 stand rejected under 35 U.S.C. § 103(a) over Yencho in view of U.S. Patent No. 6,206,913 to Evard et al. (presumably, Examiner intended to refer to 6,616,675 to Evard et al.). Applicant submits that claims 7, and 26-27 are allowable under 35 U.S.C. § 103(a) over Yencho in view of Evard.

The Examiner relies on Evard for the disclosure of a cylindrical body with a taper. Evard relates to various anastomotic connectors and apparatus for forming and/or maintaining connections between openings formed in anatomical structures. However, Applicant submits that even if Evard does disclose a cylindrical member between two flanges wherein the cylindrical body tapers, as recited in claims 7, and 26-27, Evard fails to cure the deficiencies of Yencho in that Evard does not

disclose a flange member and a locking member arrangement, as recited in independent claims 1 and 22.

Accordingly, in view of the foregoing, since Evard fails to cure the deficiencies of Yencho, Applicant submits that claims 7, and 26-27 are allowable under 35 U.S.C. § 103(a) over Yencho in view of Evard.

Claims 20-21 stand rejected under 35 U.S.C. § 103(a) over Yencho in view of U.S. Patent No. 5,591,179 to Edelstein.

Applicant submits that claims 20-21 are allowable under 35 U.S.C. § 103(a) over Yencho in view of Edelstein.

The Examiner relies on Edelstein for the disclosure of the teaching of a technique of anastomosis in radical prostatectomy. Edelstein relates to a device for deploying a needle and suture to suture the urethral stump and bladder to one another. However, Applicant submits that even if Edelstein does disclose a device for deploying a needle and suture to suture the urethral stump and bladder to one another, as recited in claims 20-21, Edelstein fails to cure the deficiencies of Yencho in that Edelstein does not disclose “an anchoring assembly including a locking member arranged to be received in the passage of the flange member, the locking member defining a lumen therethrough, the locking member being configured and adapted to radially deflect the expandable annular body upon insertion of the locking member within the passage of the annular body; and advancing the positioning tube through the tubular body to drive and secure the discrete locking member of the anchoring assembly into the annular body of the flange member and to deflect the annular body radially outward against the inner surface of the body lumen,” as recited in independent claim 17.

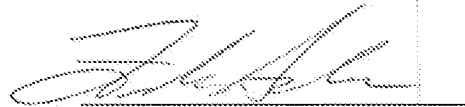


Accordingly, in view of the foregoing, since Edelstein fails to cure the deficiencies of Yencho, Applicant submits that claims 20-21 are allowable under 35 U.S.C. § 103(a) over Yencho in view of Edelstein.

In view of the foregoing amendments and remarks, it is respectfully submitted that all claims pending in this application, namely Claims 1-27, are in condition for allowance. Accordingly, early and favorable reconsideration of this application is respectfully requested. Should the Examiner feel that a telephone or personal interview may facilitate resolution of any remaining matters, he or she is respectfully requested to contact Applicant's attorney at the number indicated below.

Please charge any deficiency as well as any other fee(s) which may become due under 37 C.F.R. §1.16 and/or 1.17 at any time during the pendency of this application, or credit any overpayment of such fee(s) to Deposit Account No. 21-0550. Also, in the event any extensions of time for responding are required for the pending application(s), please treat this paper as a petition to extend the time as required and charge Deposit Account No. 21-0550 therefor.

Respectfully submitted,



Francesco Sardone  
Reg. No. 47,918  
Attorney for Applicants(s)

**CARTER, DeLUCA, FARRELL & SCHMIDT, LLP**  
445 Broad Hollow Road, Suite 225  
Melville, New York 11747  
Phone: (631) 501-5700  
Fax: (631) 501-3526